

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. WEBPOINTUSA, Respondent.	DOCKET NO. FCU-04-15
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND REQUIRING RESPONSE**

(Issued April 15, 2004)

On March 15, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a request for a formal proceeding to consider civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-04-37, relating to WebPointUSA (WebPoint), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 103(4)"a." Based upon the record assembled in the informal complaint proceedings (which is a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On February 18, 2004, Dr. Steven Tenold, D.C., of Tenold Chiropractic Clinic, filed a written complaint with the Board against WebPoint alleging that WebPoint placed unauthorized charges for Internet services on Dr. Tenold's business telephone bill. Board staff identified the matter as C-04-037 and, pursuant to Board rules, on February 19, 2004, forwarded the complaint to WebPoint for response.

WebPoint responded on February 24, 2004, stating that its records showed that the services billed to Dr. Tenold's account were authorized by "Ms. Stephanie Ethal" and WebPoint provided a transcript of the third-party verification used during the sale of services. WebPoint further stated that in consideration of Dr. Tenold, a goodwill credit was issued to Dr. Tenold's account in the amount of \$119.97, which represented the total amount owed. It appears the reference to Ms. Ethal should have been to Ms. Eckhoff.

On March 3, 2004, Board staff issued a proposed resolution describing these events and finding that Ms. Eckhoff did not have the authority to make decisions regarding Dr. Tenold's account and, therefore, the services for which Dr. Tenold was charged were unauthorized. Board staff also proposed that the credit by WebPoint represented a fair resolution of the situation. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its March 15, 2004, petition, Consumer Advocate asserts that sufficient reasons exist to merit an investigation into the matter and that the proposed resolution should be augmented with a monetary penalty. Consumer Advocate

requests that the Board docket this complaint for a formal proceeding and impose civil penalties on WebPoint. WebPoint has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until May 10, 2004, to allow WebPoint an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on March 15, 2004, identified as Docket No. FCU-04-15, is granted and docketed for formal proceedings.
2. WebPointUSA is directed to file a response to the petition filed by Consumer Advocate on March 15, 2004, on or before May 10, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 15th day of April, 2004.